

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NATHAN SPEIGHTS,

Petitioner,

-against-

9:10-CV-0382 (LEK/ATB)

JOHN P. LEMPKE,

Respondent.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on March 22, 2011 by the Honorable Andrew T. Baxter, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 9). After fourteen days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Nathan Speights, which were filed April 28, 2011. Objections (Dkt. No. 11).

This Court is to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* Where, however, an objecting “party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Farid v. Bouey*, 554 F. Supp. 2d 301, 307 (N.D.N.Y. 2008) (quoting *McAllan v. Von Essen*, 517 F. Supp. 2d 672, 679 (S.D.N.Y. 2007)) (citations and quotations omitted); see also *Brown v. Peters*, No. 95-CV-1641, 1997 WL 599355, at

\*2-3 (N.D.N.Y. Sept. 22, 1997). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

The Court has considered the Objections and has undertaken a *de novo* review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby:

**ORDERED**, that the Report-Recommendation (Dkt. No. 58) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

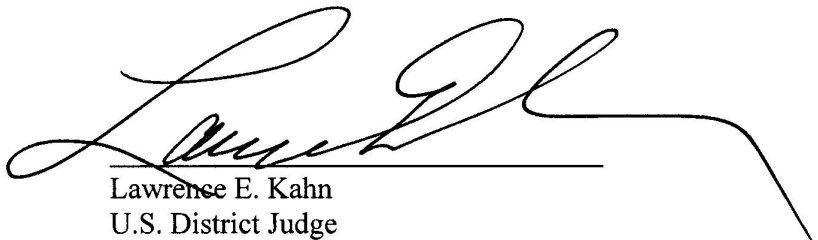
**ORDERED**, that the Petition (Dkt. No. 1) is **DENIED and DISMISSED**; and it is further

**ORDERED**, that a certificate of appealability be **DENIED**; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: May 10, 2011  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge